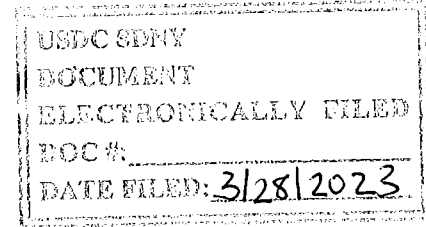


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
LOST LAKE HOLDINGS LLC; and :
MISHCONOS MAZAH LLC, :
Plaintiffs, :
v. :

TOWN OF FORESTBURGH; FORESTBURGH :
TOWN BOARD; FORESTBURGH ZONING :
BOARD OF APPEALS; DANIEL S. HOGUE, :
JR., in his official capacity as Town Supervisor :
of the Town of Forestburgh; RICHARD :
ROBBINS, in his official capacity as :
Chairperson of the Planning Board of the Town :
of Forestburgh; GLENN A. GABBARD, in his :
official capacity as Building Inspector of the :
Town of Forestburgh; and DENNIS :
KETCHAM, in his capacity as Town Assessor of :
the Town of Forestburgh, :
Defendants. :
-----X

ORDER

22 CV 10656 (VB)

On March 9, 2023, defendants filed a motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). (Doc. #45). In response to the Court's Order of March 13, 2023 (Doc. #49), plaintiffs' counsel submitted a letter addressing the standing and ripeness issues in defendants' motion. (Doc. #51). Having reviewed that letter, the Court believes it would be premature to decide the motion at this time.

Accordingly, it is hereby ORDERED that, by no later than April 7, 2023, plaintiffs must notify the Court by letter whether they (i) intend to file an amended complaint in response to the motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

If plaintiffs elect not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiffs a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendants' motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015)

(leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility”); accord F5 Cap. v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiffs elect to file an amended complaint, they must file the amended complaint by no later than 14 days after notifying the Court of its intent to do so. Within 21 days of such amendment, defendants may either: (i) file an answer to the amended complaint; (ii) file a motion to dismiss the amended complaint; or (iii) notify the Court by letter that they are relying on the initially filed motion to dismiss.

Dated: March 28, 2023
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge